



**Oregon**

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August 7, 2003

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E., Suite 110  
Washington, D.C. 20002

RE: WT Docket No. 03-128 Nationwide Programmatic Agreement

Dear Ms. Dortch:

Thank you for the opportunity to comment on the proposed language in the nationwide Programmatic Agreement among the Federal Communications Commission (FCC), the National Conference of State Historic Preservation Officers (NCSHPO), and the Advisory Council on Historic Preservation (ACHP). We request that the signatories consider the following general comments:

**Appendix A: Nationwide Programmatic Agreement**

1. A-8, III. Exclusions 4. - Two-hundred feet is not an appropriate Area of Potential Effect (APE) for a tower 400 feet tall. "Industrial," "commercial," and "government-office" describe property types just as likely to be historically significant as any other property type.
2. A-9, III. Exclusions 5. - A highway, railway line, or communications structure is not excluded from review under this provision if it is listed in the National Register. What about those properties that are eligible for listing? In addition, properties where the setting and visual elements are called out as character-defining features in a nomination are also not excluded from review under this provision. This is not a fair stipulation, as setting and visual elements are almost never included as character-defining features in a National Register nomination, particularly in the older ones, because the National Register program did not specify that kind of detail from preparers of nominations.
3. A-17, VI. Identification, etc. - The statement that reads "Identification, evaluation, and assessment are most expeditiously accomplished by individuals with historic preservation and cultural resource management expertise and experience" is too weak. The federal regulations require qualified professionals to make findings of eligibility and effect, not because it is "expeditious," but because it is unprofessional and unethical to hire people to perform work for which they are not qualified. There have been many instances where "program techs" metamorphose into "historical architects" overnight in order to get their submittals accepted by the SHPO. Professional qualifications must be demonstrated.



4. A-17, VI. Identification, etc. B.2.a.2) - A  $\frac{3}{4}$ -mile APE is not big enough for a 200-foot tower, much less a 400-foot tower.
5. A-20, VII. Procedures A.2. - Most SHPOs will find it difficult to meet the thirty-day review requirement. This provision is unfair as long as the FCC continues to overburden state regulatory agencies.
6. A-23, VII. Procedures D. - No mention of public notification here. Needs to be a stated requirement.

**Attachment 3: New Tower Submission Form (Form NT)**

1. 3-2, I. Exclusions. - The review period clock starts when the SHPO receives the submittal, not when the applicant provides, or sends it. This language needs to be clarified.
2. 3-7, Elements of Collocation Submission Packet, 5. Determination of Effect - The SHPO must have some sort of visual simulation of the installation, whether computer generated, hand drawn to scale, or a balloon test, on which to base its concurrence on effect. Narrative explanations, while extremely helpful, are not explicit enough to serve as the basis for concurrence. SHPO staff is forced to blindly trust the applicant's interpretation of the effect, and simply imagine what the tower will look like from a given resource; neither option leaves the SHPO with the ability to fully justify its determination.

Again, thank you for the opportunity to comment. If you have any questions regarding these comments, please feel free to contact me at the SHPO, extension 231.

Sincerely,



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Assistant Director of Heritage Conservation,  
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Cc: Amos Loveday, FCC  
Charlene Dwin-Vaughn, ACHP  
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